

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4077 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DOLATRAI VALLABHJI OZA

Versus

STATE OF GUJARAT

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Appearance:

MR DD VYAS for Petitioners  
GOVERNMENT PLEADER for Respondent No. 1  
SERVED for Respondent No. 2, 3

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CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 20/12/96

ORAL JUDGEMENT

Though this Court has issued Rule and expedited this matter on 17.10.1985, the respondents, the State and its officers, have not bothered to file their reply. It is hightime that those who talk about efficiency should start taking strict disciplinary action against the negligent officers, who are not even taking care to reply to the Rule issued by the Court. Learned Assistant

Government Pleader was not happy with the situation as he was not even armed with papers initially, which later on he got, but in the absence of affidavit in reply, he found it extremely difficult to defend the action of the State.

2. It appears from the available papers in the compilation of this petition that the Government passed a resolution on 22.9.1980, vide Annexure 'G', fixing the ratio of students and teachers in different classes. Mr. Vyas, learned counsel for the petitioners drew the attention of the Court to Rule 37 of the Bombay Primary Education Rules, 1949 (hereinafter referred to as the Rules), framed under the Bombay Primary Education Act, 1947 (hereinafter referred to as the Act). Sub-clauses (i) and (ii) of rule 37 of the said Rules, which are relevant for the instant case, read as under :-

### 37. Teachers

- (1) Every district school board or authorised municipality shall ensure that the number of pupils on the rolls of a class in charge of a primary school teacher and, if a teacher is in charge of more than one class, the total number of pupils on the rolls of all such classes does not, save in special circumstances, exceed 40 in any session.
- (2). Every district school board or authorised municipality shall, as far as possible, maintain one extra primary school teachers in addition to the ordinary class teachers maintained in accordance with rub-rule (1) if the number of pupils in a primary school exceeds 200.

Mr. Vyas, learned advocate submitted that resolutions are passed in clear breach of this Rules. A copy of one such resolution is at annexure 'G' Colly. to this petition, being resolution No. PRE-110-35274-A dated 22.9.1980.

3. Vide Annexure 'H' dated 23.12.1980, a representation has been made in this behalf, pointing out that the resolution dated 22.9.1980 is illegal and the teacher-student ratio fixed requires re-consideration. Mr. Vyas submitted that in any case, any resolution that may be passed must be in consonance with the Rules, and not in contravention thereof. This submission requires consideration.

4. We, therefore, direct the Primary Education Department to consider the representation within a period of four weeks from today. Mr. Vyas is requested to send a copy of the petition along with the annexures and a copy of this order to the authority to whom the representation at Annexure "H" has been made. It is hoped that within four weeks thereafter, the competent authority will render its decision and communicate the same to the petitioner.

Rule made absolute accordingly, with no order as to costs.

csm./ \*\*\*\*\*